## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION 5:23-cv-00019-RJC

JAMES KENNETH KELLER,	)	
Plaintiff,	)	
v.	)	ORDER
KILOLO KIJAKAZI, Acting Commissioner of Social Security,	) ) )	<u>ORDER</u>
Defendant.	)	

**THIS MATTER** is before the Court *sua sponte*.

The pro se Plaintiff filed this civil action without paying the filing fee and sought to proceed in forma pauperis. (Doc. No. 2). On February 17, 2023, the Court denied the Plaintiff's Application to proceed in forma pauperis and ordered the Plaintiff to pay the \$402 filing fee within 30 days. (Doc. No. 3). Without such payment, the Court warned, the "action will be dismissed without prejudice and without further notice to Plaintiff. (*Id.*). The Plaintiff has not paid the filing fee and the time to do so has expired.

The Plaintiff appears to have abandoned this action. Therefore, this action will be dismissed without prejudice. *See* Fed. R. Civ. P. 41(b) ("If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it."); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-33 (1962) (although Rule 41(b) does not expressly provide for *sua sponte* dismissal, Rule 41(b) does not imply any such restriction and a court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

## IT IS, THEREFORE, ORDERED that:

- 1. This action is **DISMISSED** without prejudice for failure to comply with the Court's February 17, 2023 Order.
- 2. The Clerk of Court is directed to close this case.

Signed: April 18, 2023

Robert J. Conrad, Jr.

United States District Judge